

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TENNESSEE  
EASTERN DIVISION

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EDWIN T. SMITH,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	No. 1:15-cv-01056-JDT-egb
	)	
MATTHEW CARSON, ROY TURNER, POLICE	)	
OFFICER JOHN DOE (PATROLMAN),	)	
LIEUTENANT JOHN DOE, CAPTAIN JOHN	)	
DOE, CHIEF OF POLICE CHRIS LEA, AND)	)	
CITY OF BROWNSVILLE, TENNESSEE,	)	
	)	
Defendants.	)	

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**REPORT AND RECOMMENDATION**

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Before this Magistrate Judge is the Defendants' Joint Rule 41 (b) Motion to Dismiss for Failure to Prosecute and to Comply with Orders of the Court. (D.E. 39)

This is a *pro se* lawsuit that was filed March 19, 2015 against the Defendants who are members of the City of Brownsville's Police Department, and the City itself. As noted, the Defendants have moved to dismiss Plaintiff's complaint pursuant to Fed. R. Civ. P. 41(b).

The Plaintiff failed to appear for the February 24, 2016 Scheduling Conference and on that date an Order to Show Cause was entered by the undersigned<sup>1</sup>.

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<sup>1</sup> The *pro se* Plaintiff did contact Chambers on February 18, 2016, stating that he would not be able to make it to the Conference due to his being recently

The Plaintiff failed to respond to the Order of this Court and otherwise has failed to prosecute his lawsuit. Defendants assert that Plaintiff also has not responded to their Motion to Dismiss for Failure to State a Claim [D.E. 27]. It also appears that one of the Defendant's attorneys, Michael Varnell wrote Plaintiff informing him of Defendants' intent to file a Motion to Dismiss for failure to prosecute his lawsuit and again the Plaintiff has failed to respond.

Based upon the above, it is recommended that the Plaintiff's lawsuit be dismissed for failure to prosecute and/or comply with the Scheduling Order.

Respectfully Submitted this 24<sup>th</sup> day of May, 2016.

s/Edward G. Bryant

UNITED STATES MAGISTRATE JUDGE

**ANY OBJECTIONS OR EXCEPTIONS TO THIS REPORT AND RECOMMENDATION MUST BE FILED WITHIN FOURTEEN (14) DAYS AFTER BEING SERVED WITH A COPY OF THE REPORT AND RECOMMENDATION. 28 U.S.C. § 636(b)(1). FAILURE TO FILE THEM WITHIN FOURTEEN (14) DAYS MAY CONSTITUTE A WAIVER OF OBJECTIONS, EXCEPTIONS, AND ANY FURTHER APPEAL.**

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released from the hospital. However, he was advised by Chambers that he needed to contact the opposing counsel to notify them of this and to find an alternate date for the Conference. Defense counsel stated that their offices' were not contacted by the Plaintiff.